

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (FOR CHALLENGING
VIRES/ULTRA VIRES) NO. 947 of 2024**=====
RAJKUMAR RAMNARAYAN MISHRA & ORS.**Versus****STATE OF GUJARAT & ORS.**
=====**Appearance:****ALPESH D ARYA(8839) for the Applicant(s) No. 1,2,3,4,5,6****CHETAN D KARIYA(8819) for the Applicant(s) No. 1,2,3,4,5,6****MR KEVAL R DHOLAKIYA(12277) for the Respondent(s) No. 3****MR P P MAJMUDAR(5284) for the Respondent(s) No. 3****MS. MAITHILI MEHTA, APP for the Respondent(s) No. 4**
=====**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL****and****HONOURABLE MR. JUSTICE D.N. RAY****Date : 18/11/2025****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)**

1. The affidavit of the Collector and District Magistrate, Kachchh at Bhuj dated 17.11.2025 filed in the Court today in compliance with the order dated 04.11.2025 is taken on record. It was categorically recorded in the order dated 04.11.2025 that the dispute was arising out of a Civil Court decree being purely civil in nature, it is not understandable as to how the complaint under the Gujarat Land Grabbing (Prohibition) Act, 2020 (for short "the Act, 2020"), filed at the instance of the respondent No.3, has been entertained for lodging the First Information Report/criminal complaint,

ultimately putting two persons in jail for a period of two and half months.

2. In the affidavit filed by the Collector, it is an admitted fact of the matter that the complaint filed by the respondent No.3-complainant was of non-compliance of the orders dated 12.09.2007 and 02.12 2008 passed by the Civil Court in Civil Suit No.332 of 2003, wherein, the relief was sought for execution and possession of the lease property, by the complainant, on the premise that the property in question was transferred to him. The affidavit states that the Civil Court issued directions that on payment of Rs.10,000/-, balance amount of consideration, lease deed was to be executed in favour of the complainant namely Haresh Devandas Bhojwani. The Civil Court has further appointed a Court Commissioner by order dated 02.12.2008, who was directed to transfer the property in question to the complainant.

3. It is further stated in the affidavit of the Collector that a lease deed came to be executed on 12.03.2009 which was subsequently modified on 24.04.2009, whereby the property in question came to be transferred as leasehold rights were

transferred to the complainant and the name of the complainant was mutated.

4. The complaint under the Gujarat Land Grabbing (Prohibition) Act, 2020 was filed on 16.11.2022 against Rajkumar Ramnarayan Mishra, Shivkumar Ramanarayan Mishra, Nandan Courier Limited, Shri Nileshbhai Lagdhirbhai, Shri Pravinbhai Shrimali and Shri Vishal -Image Hair Parlour, wherein it is stated that two persons namely Rajkumar Ramnarayan Mishra and Shivkumar Ramnarayan Mishra were colluding with the remaining three to illegally continue in possession of the property in question.

5. Entertaining the complaint, direction was issued to the Prant Officer, Anjar vide communication dated 24.11.2022 from the Office of the Collector and District Magistrate, Kachchh at Bhuj to submit his report to the Committee constituted under the Act, 2020.

6. The contents of the Paragraph Nos. 9 and 10 of the affidavit of the Collector are relevant to be noted hereinunder :-

"9. It respectfully submitted that the Prant officer, Anjar, vide letter dated 30.10.2023 submitted the report to the committee. The said report records that despite the Civil Court having passed the orders dated 12.09.2007 and 02.12.2008 directing transfer of the property to Haresh Devandas Bhojwani, the tenants/sub-lease holders, being the heirs of Ramnarayan Mishra-namely, Rajkumar Ramnarayan Mishra, Shivkumar Ramnarayan Mishra, and Satishkumar Ramnarayan Mishra continued to remain in illegal possession of the property in question as on the date of the application under the Gujarat Land Grabbing (Prohibition) Act, 2020. The panchnama conducted on 07.01.2023 also records that the aforesaid individuals were in possession of the property. In view of these findings, the Prant Officer, Anjar, recommended initiation of proceedings under the Gujarat Land Grabbing (Prohibition) Act, 2020 (A copy of the said report dated 30.10.2023 is annexed herewith and marked as "Annexure-R2" and a Panchnama dated 07.01.2023 is annexed herewith and marked as "Annexure-R3").

10. It is respectfully submitted that the report of Prant officer Anjar was submitted to the committee on 07.11.2023. The report was examined by the committee constituted under the Gujarat Land Grabbing (Prohibition) Act, 2020 chaired by the Collector Kachchh comprising of District Development Officer Kachchh, Superintendent of Police (West Kachchh), Superintendent of Police (East Kachchh) and Resident Additional Collector Kachchh as its members."

7. From a perusal of the statement made therein, atleast, it is evident that even as per the report of Prant Officer, Anjar the issue was about the occupation of the property in question by the persons who continued to remain in occupation of the same in-spite of the orders dated 12.09.2007 and 02.12.2008 passed by the Civil Court.

8. It is also admitted in the affidavit of the Collector that

the issue was pertaining to the compliance of the orders of the Civil Court dated 12.09.2007 and 02.12.2008 whereby the order was passed to execute the lease deed in favour of the complainant on payment of an amount of Rs.10,000/- and the Court Commissioner has been directed to transfer the property in question to the complainant.

9. In our considered opinion, for any dispute pertaining to the directions contained in the order of the Civil Court, the remedy before the complainant/the person in whose favour the order is passed, is to approach the competent Court for execution thereof or file a complaint of contempt for alleged illegal occupation of the property in question.

10. In any case, the machinery of the Office of the District Collector and the police authorities could not have been employed by filing a criminal complaint on the allegations of illegal occupation of the property in question under the Land Grabbing Act, 2020. Pertinent is to note that the Civil Suit No. 332 of 2003 filed before the Civil Court, Gandhidham was for the relief of specific performance of agreement, seeking execution and possession of the lease property against one

Smt. Bhagwati to whom the property in question was transferred after demise of Shri Pohumal Topandas, as evident from the averments made in the affidavit of the Collector.

11. We may further note from the record that the Regular Civil Suit No.107 of 2009 was filed by the complainant seeking for eviction of two persons namely Rajkumar Ramnarayan Mishra and Shivkumar Ramnarayan Mishra, who had been arraigned as the land grabbers in the complaint filed by the complainant-respondent No.2 under the Act, 2020 before the Collector, Kachchh at Bhuj. It is also pertinent to note that during the pendency of the said suit, Shivkumar Ramnarayan Mishra had already died and his heirs being wife and minor children, have been impleaded as defendant Nos. 2.1 to 2.5 in the Civil Suit, as is evident from the judgment and order dated 06.01.2022 of disposal of the said suit. An eviction decree has been passed against the defendant in the Regular Civil Suit No.107 of 2009.

12. In these facts and circumstances, it is evident that against the petitioners and the persons, against whom the

complaint was filed under the Act, 2020, a Civil Court decree of eviction was operating, which could have been executed in accordance with the procedure prescribed under the Code of Civil Procedure, 1908.

13. As noted by us in the order dated 04.11.2025 that a First Appeal along the Delay Condonation Application No. 47 of 2023 was filed before the Additional District Judge, Gandhidham, Kachchh wherein the parties have entered into a settlement and the physical possession of the property in question has been handed over to the decree holder.

14. In light of the aforesaid admitted facts, it is evident that there cannot be any justification for the action on the part of the Committee headed by the Collector constituted under the Act, 2020, to entertain the complaint and grant approval for registration of the First Information Report. Though the correct and complete facts pertaining to the issue have not been brought in the affidavit of the Collector, but it is evident that even the report of the Prant Officer, Anjar dated 30.10.2023, submitted before the Committee as narrated in Paragraph No.'9' of the affidavit, mentioned about the Civil

Court orders and violation thereof on the part of the persons in occupation of the property in question. In this scenario, it was completely outside the jurisdiction of the Committee to form an opinion for lodging of the First Information Report treating the complaint as a report of the criminal offence under the Act, 2020, on the directions issued by the Committee, the concerned Police Officer registered the FIR which has led to the arrest of the persons named in the First Information Report and submission of charge-sheet before the Criminal Court.

15. Further taking note of the object and purpose of the Land Grabbing Act, 2020, which has been enacted to prohibit Land Grabbing activities and the matters connected thereto in the State of Gujarat, pertinent is to note that the phrases “Land Grabbers” and “Land Grabbing” are defined in Section 2(d)(e) of the Act 2020. A perusal of the definitions of the “Land Grabber” and the “Land Grabbing” activity therein clearly indicates that a person who gave financial aid to any person for taking illegal possession of lands or for construction of unauthorized structures thereon, or who collects or attempts to collect from any occupiers of such

lands rent, compensation and other charges by criminal intimidation, or who abets doing of any of the above mentioned acts would be identified as “land grabber”, which also includes the successors-in-interest of such person.

16. The petitioners herein against whom the complaint has been filed by the respondent No.3 do not fall in any of the above noted categories of persons. It is an admitted fact of the matter that the petitioners were occupying the property in question as tenants on the date when the specific performance decree for execution of the lease deed in favour of the complainant was passed in the Civil Suit No.332 of 2003 filed before the Civil Court, Gandhidham, against the original owner. The eviction decree dated 06.10.2022 was passed against the petitioners in the Civil Suit for eviction filed by the complainant only after obtaining the decree of specific performance against the original owner. With the decree passed in Regular Civil Suit No.107 of 2009 against the petitioners directing for their eviction, they would not fall within the meaning of “Land Grabber” as defined in Section 2(d) of the Act, 2020.

17. Further while considering the meaning assigned to the words “Land Grabbing” under Section 2(e), pertinent is to note that the activity of “Land Grabber” to occupy or attempt to occupy with or without the force, threat, intimidation and deceit of any land over which he has no ownership, title or physical possession, without any lawful entitlement, can be said to be an activity of land grabbing of “Land Grabber”.

18. Further any activity of land grabber with a view to illegally taking possession of such land or creating illegal tenancies or lease or license, agreements or transfer or sale or by constructing unauthorized structures thereon for sale or hire or use or occupation of such unauthorized structures can be termed to be the “land grabbing activity” and such land may be construed as “grabbed land”.

19. The occupation of the petitioners being tenant of the shops in question, with respect to which the decree of specific performance was passed in favour of the complainant, cannot be said to fall within the meaning of any of the activities described in Section 2(e) as “land grabbing”. The petitioners cannot be termed as illegal occupants of the property in

question who has occupied it by illegal means. To the contrary, the petitioners have entered into the possession of the property in question as tenants inducted by the original owner. The property in question, as such, cannot be defined as “grabbed land” within the meaning of section 2(c) &(e) of the Act, 2020.

20. We may further note that the Committee constituted under the Land Grabbing Act as defined in Section 2(a) has been conferred power to make an inquiry to ascertain the correctness of the complaint and no complaint of commission of an offence under the Act, 2020 can be recorded by the police officer without the prior approval of the District Collector in consultation with the Committee notified by the State Government, as provided in Section 12(a) of the Act, 2020. In the judgment and order dated 09.05.2024 passed in Special Civil Application No. 2995 of 2021 while upholding the validity of the Land Grabbing Act'2020,it was observed that:-

“(e) Section 12(a) - re: Constitution of the Committee :-
268. Moving further on the issue of constitution of the Committee and the procedure prescribed in the Rules' 2020 framed under the Act, we do not find any fault in Section 12(a), which talks of the Committee defined in Section 2(a), to be notified by the State Government, which is an Executive Committee entrusted with the task of making preliminary

inquiry to verify the complaints of land grabbing. The contention of the petitioners that the Committee has been conferred adjudicatory power to decide on the complaint, is a result of misreading of the Act' 2020 and the Rules' 2020 made thereunder. The contention that Rule 5(8) of the Land Grabbing Rules' 2020 while conferring jurisdiction on the Committee to decide the further course of action including filing of an FIR, goes beyond the provisions of Section 12(a), is wholly misconceived. All the arguments pertaining to the power of the State Government to constitute a Committee and the power of inquiry conferred upon the Committee by virtue of Rules' 2020 framed under the Act are without substance.

(f) Rule 5 of Rules' 2020 - re: Procedure of inquiry into the complaints :-

270. Coming to Rule 5 of the Gujarat Land Grabbing (Prohibition) Rules, 2020 enacted in exercise of the power conferred by Sub-section (1) of Section 16 of the Act' 2020, we may note that Rule 5(4) provides for a prima facie inquiry into the complaint of land grabbing. The Committee has been entrusted with the task to make a prima facie inquiry into the locus standi of the applicant and to conclude as to whether the applicant can establish his land title, by getting reports and records from various authorities. A preliminary inquiry as per Rule 5(5) is to be conducted by the Prant officer or the Officer to whom the application has been referred to, whether the land in question has been occupied or attempted to occupy in an unauthorised manner or by using unlawful means. The preliminary inquiry report is to be submitted to the District Collector, which shall be placed before the Committee, which is also empowered to ask for further inquiry."

271. Rule 5 prescribes the manner in which the inquiry is to be conducted and the statement therein shows that the Committee may derive a conclusion of establishment of land title of the complainant or the occupation of the land grabber being unauthorised constituting an act of land grabbing, but all the conclusions are in a preliminary inquiry directed towards the veracity and genuineness of the complaint or allegations of land grabbing.

272. Looking to the gravity of the punishment prescribed under the Act for the proven act of land grabbing, the checks provided at the preliminary stage are aimed to curb frivolous

complaints of land grabbing, and, as such, cannot be said to suffer from vice of constitutionality.

273. The decision or the opinion drawn by the Committee as per Rule 5(8) on consideration of the inquiry report, in any case, is prima facie and is provided as the check to curb frivolous complaints of land grabbing. There is no substance in the submission that the Committee may withhold the complaint though there may be substance in the allegations of land grabbing. The plea of excessive delegation of power by virtue of Section 12(a) of the Act' 2020 is, thus, turned down being devoid of force.

274. In view of the above, all the contentions to assail the validity of the Land Grabbing Act being manifest arbitrary, hit by the principle of equality, rule of law, the principle of vagueness of the statute and in violation of constitutional provisions, noted hereinbefore, are hereby rejected."

20.1 It was, thus, considered that the Committee constituted under the Act has been conferred power to make a preliminary inquiry under Section 12(a) of the Act, with a view to ascertain the genuineness of the complaint so as to ensure that no innocent person suffers at the hands of an unscrupulous complainant who submits a misleading information or a false complaint. The role assigned to the Committee headed by the District Collector for granting prior approval for lodging of the criminal case of an offence under the Act, 2020, is with a view that frivolous complaints filed under the Act, 2020 are curbed, at the outset, by making an enquiry into the veracity and genuineness of the complaint or the allegations of "land grabbing".

21. In the facts of the present case, from the averments made in the affidavit of the Collector, it is evident that the report dated 30.10.2023 submitted by the Prant Officer, Anjar was placed for examination before the Committee constituted under the Act, 2020, which was chaired by the Collector, Kachchh and also comprised of District Development Officer, Kachchh, Superintendent of Police (West Kachchh), Superintendent of Police (East Kachchh) and Resident Additional Collector Kachchh as its members. The assertion in the paragraph No.'11' of the affidavit of the Collector is that the Committee upon thorough examination of the relevant record has observed that the complainant had purchased the property in question through a registered sale deed executed pursuant to an order of the Civil Court and inspite of the directions issued by the Civil Court to vacate the premises, three persons namely Rajkunar Ramnarayan Mishra, Shivkumar Ramnarayan Mishra and Satishkumar Ramarayan Mishra, failed to vacate in complaine of the order of the Civil Court and, thus, remained in unlawful possession of the property.

22. Once this was so, it was incumbent for the Committee

to keep its hands off and direct the complainant to approach the Civil Court for execution of the eviction decree passed in his favour. The Committee headed by the Collector was required to ascertain as to whether the facts reflected from the report of the Prant Officer would cover the complaint of an offence within the meaning under the Act, 2020 and the persons against whom the complaint was filed could be described as "land grabbers" on a prima facie examination of the material before it.

23. As noted hereinbefore, none of the provisions of the Act, 2020 cover an occupant of a building who had legally entered into the possession thereof and against whom an eviction decree has been passed by the Civil Court. The Civil Court decree can be executed by employing the machinery of the Civil Court as per the procedure prescribed under the Code of Civil Procedure.

24. Considering the above, we are of the considered opinion that the resolution of the Committee chaired by the Collector under Section 12 of the Act, 2020 to initiate the criminal proceedings against three individuals as well as other persons who were in occupation of the property in question, was

wholly contrary to the letter and spirit of the Act, 2020.

25. We do not expect the Committee chaired by the Collector also comprising of highest officers of the district in the Police Department to act in such a careless and casual manner. The decision of the Committee in granting prior approval for initiation of the criminal proceedings under the Act, 2020 is not only in contravention of the provisions of the Act, 2020, but is to be considered as an act of sheer misuse of the provisions of the Act, 2020, resulting into abuse of the process of law at the hands of the officers of the Law Enforcement Agencies. The resultant effect of such a decision was quite serious, inasmuch as, two persons namely Rajkumar Ramnarayan Mishra and Satishkumar Ramnarayan Mishra were landed in jail on the basis of the frivolous criminal complaint lodged against them, wherein later charge-sheet was also submitted by the police authority upon completion of the investigation.

26. The manner in which the complaint under the Act, 2020 has been proceeded in the present case, in fact, demonstrates that the apprehension expressed by the people of the State -

petitioners that there is a likely possibility of misuse of the provisions of the Act, 2020, during the challenge to the validity of the said provision before the Division Bench of this Court, as noted in the judgment and order dated 09.05.2024 passed in Special Civil Application No. 2995 of 2021, was not unfounded.

27. Looking to the seriousness of the present matter and the manner in which the District Collector and the officers like the Superintendent of Police have acted in the present matter, we require the Chief Secretary of the State of Gujarat to look into the matter and conduct an inquiry as to manner in which the entire complaint has been proceeded with resulting into illegal confinement of two individuals (two residents of the State), undermining their personal liberty without the authority of law, guaranteed under Article 21 of the Constitution of India.

28. We are also of the considered opinion that the petitioners who suffered at the hands of the State officials deserve to be adequately compensated by the State for the damage caused to their reputation, causing mental stress by

curtailment of their personal liberty, illegally. We further direct that in the inquiry, to be conducted at the ends of the Chief Secretary, once the guilty officials are identified, the compensation determined by the Chief Secretary, Government of Gujarat shall be realized from the personal pocket of such guilty officers. The inquiry, as directed hereinabove, shall be conducted by the competent officer(s) under the directions of the Chief Secretary and the inquiry report be submitted before us on the next date fixed.

Put up this matter on 16.12.2025 at 1.00 p.m.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

BINA SHAH